

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

KARIE ANNE JOHNSON,)	
)	
Plaintiff,)	
)	Case No:
vs.)	
)	
BETTER VET LLC,)	
)	
Defendant.)	

NOTICE OF REMOVAL

Please take notice that defendant BetterVet LLC (“Defendant”) hereby removes Case No. 2022 CH 10789 from the Circuit Court of Cook County, Illinois, Law Division, to this Court. The prerequisites for removal under 28 U.S.C. § 1441 have been met, on the following grounds:

1. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332 because complete diversity jurisdiction exists on the face of the operative First Amended Complaint. (3/2/2023 1st Am. Compl., Exhibit 1 hereto.) Plaintiff and Defendant are citizens of different states and Plaintiff seeks more than \$75,000 exclusive of interest and costs.

2. The removal is timely under 42 U.S.C. § 1446(b)(3) because the case first became removable on March 2, 2023, when the state court judge granted Plaintiff’s motion to voluntarily dismiss a non-diverse defendant and did so within a year of the filing of the state court lawsuit.

**PROCEDURAL HISTORY IN STATE COURT AND DISMISSAL OF THE
NONDIVERSE FORMER DEFENDANT BV VETERINARY SERVICES ILLINOIS**

3. On November 1, 2022 the Plaintiff commenced this action by filing a Complaint in the Circuit Court of Cook County. (*See* 11/1/2022 Compl., Exhibit 2 hereto.)

4. Plaintiff’s November 1, 2022 complaint named two defendants: (1) BetterVet LLC, the removing Defendant in this case, and (2) BV Veterinary Services Illinois PLLC (“BV Veterinary Services Illinois”), an Illinois professional liability company.

5. Defendant and BV Veterinary Services Illinois were served with the original Complaint on November 9, 2022.

6. As of November 1, 2022 and at all relevant times before February 10, 2023, the Plaintiff was a member of BV Veterinary Services Illinois PLLC, meaning the Plaintiff and BV Veterinary Services Illinois shared the same state of citizenship for purposes of diversity jurisdiction. *Wise v. Wachovia Sec., LLC*, 450 F.3d 265, 267 (7th Cir. 2006) (holding limited liability companies are citizen of states in which any member is a citizen).

7. For the reasons above, the original Complaint was not removable to federal court on the basis of diversity jurisdiction within 30 days of service of that Complaint on Defendant.

8. The Defendant appeared in state court and filed an answer, affirmative defenses and counterclaims to the original Complaint.

9. On February 10, 2023, Plaintiff filed a motion in state court seeking leave to amend her complaint and to voluntarily dismiss BV Veterinary Services Illinois from the lawsuit. (2/28/2023 Mot., Exhibit 3 hereto).

10. On March 2, 2023, the state court judge granted the Plaintiff's motion for leave to amend her complaint and dismissed BV Veterinary Services Illinois from the lawsuit. (3/2/2023 Order, Ex. 4 hereto.) Also on March 2, 2023, Plaintiff filed her First Amended Complaint. (Ex. 1).

11. This case first became removable to federal court on March 2, 2023, because that was the date the state court judge granted Plaintiff's motion for leave to amend and voluntarily dismiss a non-diverse defendant. *See Sullivan v. Conway*, 157 F.3d 1092, 1094-95 (7th Cir. 1998) (holding that an originally non-removable case first becomes removable as of the date that a state court judge allows leave to amend, and where the amended complaint is removable).

12. Pursuant to 28 U.S.C. 1446(a), Defendant attaches as Group Exhibit 5 to this Notice of Removal all process, pleadings and orders served on it in state court.

13. As required by 28 U.S.C. § 1446(d), BetterVet will promptly serve upon plaintiff's counsel and file in Cook County, Illinois, a true and correct copy of this Notice of Removal.

**COMPLETE DIVERSITY OF CITIZENSHIP EXISTS BETWEEN PLAINTIFF
AND THE SOLE DEFENDANT, BETTERVET LLC**

14. Plaintiff Karie Johnson is a citizen of Illinois and has been domiciled in Illinois at all relevant times.

15. Defendant BetterVet LLC is a limited liability company organized under the laws of the state of Delaware. The sole member of BetterVet LLC is BetterVet, Inc. BetterVet, Inc. is a Delaware corporation with its principal place of business in Massachusetts. BetterVet LLC is therefore a citizen of Delaware and Massachusetts. No member of the limited liability company is, or ever has been, a citizen of Illinois. Plaintiff is not, and never has been, a member of Better Vet LLC.

16. There is thus complete diversity of citizenship between plaintiff, an Illinois citizen, and the Defendant, who is not an Illinois citizen.

THE AMOUNT IN CONTROVERSY REQUIREMENT IS SATISFIED

17. The First Amended Complaint claims that Plaintiff has incurred "substantial" actual damages in excess of \$100,000, as well as additional reputational damages, attorneys' fees and punitive damages for purported violations of her right to publicity. (See 1st Am. Compl. at pages 7, 14-17). The alleged damages in this case thus exceed \$75,000, exclusive of interest and costs.

CONCLUSION

For the reasons set forth above, this Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332 and removal of this action to this Court is proper under 28 U.S.C. § 1441. In

accordance with 28 U.S.C. § 1446, defendant is concurrently filing a copy of this notice with the Circuit Court of Cook County and has attached hereto as Group Exhibit 5 all process, pleadings and orders served on it in Case No. 22 CH 10789.

Respectfully submitted,

BETTERVET, LLC,

/s/ Sarah R. Marmor

Sarah R. Marmor

Darren Cahr

Rebecca Ford

SCHARF BANKS MARMOR LLC

333 West Wacker Drive, Suite 450

Chicago, IL 60606

Ph. 312-726-6000

smarmor@scharfbanks.com

dcahr@scharfbanks.com

rford@scharfbanks.com

CERTIFICATE OF SERVICE

I, Sarah R. Marmor, one of the attorneys for BetterVet LLC, hereby certify that on March 31, 2023, I caused copies of the foregoing document to be served via electronic mail to the below-listed counsel of record.

/s/ Sarah R. Marmor

SERVICE LIST

John W. Albee
Emma Y. Friebus
Albee Law PC
1200 Shermer Road, Suite 430
Northbrook, IL 60062
jalbee@albeelaw.com
efriebus@albeelaw.com